

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1865
OFFERED BY MR. GOODLATTE OF VIRGINIA**

Strike all that follows after the enacting clause and
insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Allow States and Vie-
3 tims to Fight Online Sex Trafficking Act of 2017”.

4 SEC. 2. SENSE OF CONGRESS.

5 It is the sense of Congress that—

6 (1) section 230 of the Communications Act of
7 1934 (47 U.S.C. 230; commonly known as the
8 “Communications Decency Act of 1996”) was never
9 intended to provide legal protection to websites that
10 unlawfully promote and facilitate prostitution and
11 contribute to sex trafficking;

12 (2) websites that promote and facilitate pros-
13 titution have been reckless in allowing the sale of sex
14 trafficking victims and have done nothing to prevent
15 the trafficking of children and victims of force,
16 fraud, and coercion; and

1 (3) clarification of such section is warranted to
2 ensure that such section does not provide such pro-
3 tection to such websites.

4 **SEC. 3. PROMOTION OF PROSTITUTION AND RECKLESS DIS-**
5 **REGARD OF SEX TRAFFICKING.**

6 (a) PROMOTION OF PROSTITUTION.—Chapter 117 of
7 title 18, United States Code, is amended by inserting after
8 section 2421 the following:

9 **“§ 2421A. Promotion or facilitation of prostitution**
10 **and reckless disregard of sex trafficking**

11 “(a) IN GENERAL.—Whoever uses or operates a facil-
12 ity or means of interstate or foreign commerce or attempts
13 to do so with the intent to promote or facilitate the pros-
14 titution of another person shall be fined under this title,
15 imprisoned for not more than 10 years, or both.

16 “(b) AGGRAVATED VIOLATION.—Whoever uses or op-
17 erates a facility or means of interstate or foreign com-
18 merce with the intent to promote or facilitate the prostitu-
19 tion of another person and—

20 “(1) promotes or facilitates the prostitution of
21 5 or more persons; or

22 “(2) acts in reckless disregard of the fact that
23 such conduct contributed to sex trafficking, in viola-
24 tion of 1591(a),

1 shall be fined under this title, imprisoned for not more
2 than 25 years, or both.

3 “(c) CIVIL RECOVERY.—Any person injured by rea-
4 son of a violation of section 2421A(b) may recover dam-
5 ages and reasonable attorneys’ fees in an action before any
6 appropriate United States district court. Consistent with
7 section 230 of the Communications Act of 1934 (47
8 U.S.C. 230), a defendant may be held liable, under this
9 subsection, where promotion or facilitation of prostitution
10 activity includes responsibility for the creation or develop-
11 ment of all or part of the information or content provided
12 through any interactive computer service.

13 “(d) MANDATORY RESTITUTION.—Notwithstanding
14 sections 3663 or 3663A and in addition to any other civil
15 or criminal penalties authorized by law, the court shall
16 order restitution for any offense under this section.

17 “(e) AFFIRMATIVE DEFENSE.—It shall be an affirm-
18 ative defense to a charge of violating subsection (a) where
19 the defendant proves, by a preponderance of the evidence,
20 that the promotion or facilitation of prostitution is legal
21 in the jurisdiction where the promotion or facilitation was
22 targeted.”.

23 (c) TABLE OF CONTENTS.—The table of contents for
24 such chapter is amended by inserting after the item relat-
25 ing to section 2421 the following:

“2421A. Promotion or facilitation of prostitution and reckless disregard of sex trafficking.”.

1 **SEC. 4. COMMUNICATIONS DECENCY ACT.**

2 Section 230(e) of the Communications Act of 1934
3 (47 U.S.C. 230(e)) is amended by adding at the end the
4 following:

5 “(5) NO EFFECT ON STATE LAWS CONFORMING
6 TO 18 U.S.C. 1591(A) OR 2421A.—Nothing in this sec-
7 tion shall be construed to impair or limit any charge
8 in a criminal prosecution brought under State law—

9 “(A) if the conduct underlying the charge
10 constitutes a violation of section 2421A of title
11 18, United States Code, and promotion or fa-
12 cilitation of prostitution is illegal in the jurisdic-
13 tion where the defendant’s promotion or facili-
14 tation of prostitution was targeted; or

15 “(B) if the conduct underlying the charge
16 constitutes a violation of section 1591(a) of title
17 18, United States Code.”.

18 **SEC. 5. SAVINGS CLAUSE.**

19 Nothing in this Act or the amendments made by this
20 Act shall be construed to limit or preempt any civil action
21 or criminal prosecution under Federal law or State law
22 (including State statutory law and State common law)
23 filed before or after the day before the date of enactment
24 of this Act that was not limited or preempted by section

1 230 of the Communications Act of 1934 (47 U.S.C. 230),
2 as such section was in effect on the day before the date
3 of enactment of this Act.

